

OPINION
63-251

November 22, 1963 (OPINION)

STATE VEHICLES

RE: Marking - Paint Required

Your letter dated October 28, 1963, has been referred to my desk for reply. Your letter provides as follows:

"Your opinion is respectfully requested re the following:

"The past session the above captioned was amended by the legislature, whereas it became the duty of the state auditor, when spot checking or verifying inventory of a department during an audit, to report any non-compliance of this section. The question has been raised as to whether or not the use of decals or shields in marking vehicles meets the requirements of this section when the statute states, 'Shall have painted on each front door the following words'."

Section 39-01-02 of the North Dakota Century Code, as amended by the 1963 Legislature, provides as follows:

"STATE-OWNED MOTOR VEHICLES TO HAVE NAME PAINTED ON SIDE OF VEHICLES - PENALTY FOR FAILURE. All motor vehicles owned by any state department, institution, industry, and operated by such department, institution, or industry shall have painted on each front door the following words: NORTH DAKOTA, in letters four inches in height. Two and one-half inches directly below such words shall be printed in letters one and one-half inches in height the name of the department, institution, or industry of the state owning or operating such motor vehicle. The width of the lettering required by this section shall be proportionate to the required height and the color of such lettering shall be in clear and sharp contrast to the background. The state highway patrol and all peace officers of this state shall enforce the provisions of this section. The state auditor, in the course of spot checking or verifying the inventory of any department, institution, or industry, shall include in his report to the governor and the legislative assembly any instance of noncompliance with this section that shall come to his attention. The above requirements shall not apply to cars owned and operated by the state highway patrol or cars used principally in institutional, juvenile, parole and placement service; or to any truck owned by any state department, institution, or industry. Any state official, or any employee of any state department, institution, or industry, who uses a motor vehicle which shall not be marked as is required by this section is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and

imprisonment."

You will note that the word "painted" in this section is used as a verb. From a study of dictionary definitions we come to the conclusion that the meaning most nearly intended by the legislature for this word would be, "application of paint." The word "paint" used as a noun would mean, "a mixture of a pigment with some suitable liquid to form a solid adherent covering when spread on a surface in thin coats."

However, it is our opinion that a strict interpretation of this statute would require wet paint to be applied to the door itself in the prescribed manner. Consequently, it would appear that the use of shields would not meet the requirements of the statute. It might be contended that when decals are attached to the door that such sign becomes a part of the door and since the decal is composed of paints, such sign is in fact "painted on each front door."

HELGI JOHANNESON

Attorney General